

REMARKS

Summary of the Office Action

Claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kijima et al. (U.S. Patent No. 6,259,500).

Applicants wish to thank the Examiner for the indication that claims 3-6 are allowable.

Summary of the Response to the Office Action

Applicants have canceled non-elected claims 7 and 8, without prejudice or disclaimer. Accordingly, claims 1-6 are pending for reconsideration.

All Claims Define Allowable Subject Matter

Claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kijima, et al. (U.S. Patent No. 6,259,500). Applicants respectfully traverse this rejection for the following reasons.

With respect to independent claim 1, Applicants respectfully submit that Kijima et al. does not teach or suggest at least the step of “patterning the second layer and the amorphous silicon layer to form a passivation layer and an active layer.” In fact, Kijima et al. teaches in FIG. 3A, for example, that the amorphous silicon layer 27 is formed prior to formation of metal layer and the ITO layer 30 (in FIG. 4A). Accordingly, Kijima et al. fails to teach or suggestion at least the step of “patterning the second layer and the amorphous silicon layer to form a passivation layer and an active layer.”

Furthermore, the Office Action also fails to identify any prior art that may have provided some teaching or suggestion of the claimed features. MPEP §2143.03 instructs that “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught

or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974).”

Moreover, MPEP §2144.06 instructs that “[I]n order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency *must* be recognized in the prior art, and *cannot* be based on applicants’ disclosure or the mere fact that the components at issue are functional or mechanical equivalents. *In re Ruff*, 256 F.2d 590, 118 USPQ 340 (CCPA 1958)” (emphasis added). Accordingly, because the applied art does not teach or suggest **all the claim limitations**, Applicants respectfully assert that the Office Action has not established a *prima facie* case of obviousness.

Since the Office Action fails to meet the requirements for establishing a *prima facie* case of obviousness as to independent claim 1, claim 1 is not obvious. Further, since claim 2 depends from claim 1, and incorporates all the features of claim 1, claim 2 is not obvious at least for at least the above reasons for which independent claim 1 is not obvious. Thus, Applicants respectfully request that the rejections of claims 1 and 2 under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding

after consideration of the response, the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

Respectfully submitted,

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